

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 NATHAN WALLACE 1:09-CV-0313 WMW (HC)
12 Petitioner,
13 vs. ORDER OF TRANSFER
14 WARDEN L. SMALL,
15 Respondent.

Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

19 The federal venue statute requires that a civil action, other than one based on diversity
20 jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants
21 reside in the same state, (2) a judicial district in which a substantial part of the events or omissions
22 giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is
23 situated, or (3) a judicial district in which any defendant may be found, if there is no district in which
24 the action may otherwise be brought.” 28 U.S.C. § 1331(b).

25 In this case, the petitioner is challenging a conviction from Imperial County, which is in the
26 Southern District of California. Therefore, the petition should have been filed in the United States
27 District Court for the Southern District of California. In the interest of justice, a federal court may
28 transfer a case filed in the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v.

¹ McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

2 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the United States
3 District Court for the Southern District of California.

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5 || IT IS SO ORDERED.

6 | Dated: February 24, 2009

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE